



SHONTO PREPARATORY SCHOOL

OPERATION & TECHNOLOGY OFFICE
DIRECTOR: PAUL HUBER
INSTRUCTIONAL SPECIALIST: ROBINA HENRY

Received & Inspected

SEP - 7 2010

FCC Mail Room

PO Box 7900
Hwy 160 & Rt. 98
Shonto, AZ 86054
Phone (928) 672-3534
Fax (928) 672-3503

**CC Docket No. 02-6
Letter of Appeal
Request for Review**

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, MD 20743

VIA FEDERAL EXPRESS

September 1, 2010

1. Contact Information:

- a. **Applicant Name: Shonto Preparatory School (BEN 223981)**
- b. **Contact Person Name: Paul Huber**
- c. **PO Box 7900, Shonto, AZ 86054**
- d. **Contact Phone Number: 928.672.2652**

2. USAC Action Being Appealed:

- a. **Administrator's Decision on Appeal – Funding Year 2007-2008, dated July 13, 2010**
- b. **Form 471 Number: 577360**
- c. **Funding Year: 2007**
- d. **FRN:1597188**
- e. **Billed Entity Number: 223981**
- f. **FCC Registration Number: 000000000**
- g. **In its Administrator's Decision on Appeal – Funding Year 2007-2008, dated July 13, 2010, USAC stated:**
 - i. **“USAC has determined that the entity (Shonto Preparatory School, specifically Shonto Student Residential Dormitories) does not meet the statutory definition of an elementary or a secondary school found in the No Child Left Behind Act of 2001 (20 U.S. C. Section 7801, 18 and 38). Whether an individual school, school district, or consortia of schools or school districts are eligible for discounts depends on whether the entity meets the statutory definitions as outlined below.**

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The information provided indicates that Shonto Student Residential Dormitories is ineligible to receive products and/or services. Shonto Student Residential Dormitories does not satisfy the definition(s) explained below. During the course of a review it was determined that services were provided to, or installed at, Shonto Student Residential Dormitories. This resulted in a Commitment Adjustment Letter (CAL) being sent out to recover funds associated with the Dormitories. In your appeal, you did not prove that USAC's determination was incorrect. Consequently, your appeal is denied."

In response to USAC's letter of July 13, 2010, wherein USAC declares as ineligible certain portions of our campus, we offer the following information.

As we have stated numerous times before, the buildings which are the subject of this recovery effort are NOT simply sleeping facilities. These buildings are located on our campus and are an integral part of our educational effort.

As you can see from the memorandum previously submitted to USAC by our Superintendent¹ (attached here), he certifies that "These residential facilities contain fully functioning computer labs that are used every day for the continuing instruction of our students." Please note that we further certify that ONLY the instructional areas within these buildings received E-rate support. No equipment was installed and no services are available in the rooms where students sleep.

We are also submitting a letter of support from the State of Arizona Department of Education² (attached). Mr. Brett Hinton, Arizona State E-rate Coordinator, researched this issue and concluded that there are no restrictions imposed by the State of Arizona that would preclude the funding of the buildings in question.

Further, in his letter of August 3, 2009, Mr. Hinton goes on to support Shonto's position that the E-rate requests received or pending in this matter, are valid and eligible.

Finally, we have included numerous pictures which show the Computer Labs in these building, and pictures showing that no ineligible services are to be found in the sleeping rooms.³

Therefore, we have chosen to exercise our option to Appeal this decision to the Federal Communications Commission.

1. We do not agree with USAC's eligibility assessment of our entities.

¹ Revised Memorandum from Superintendent McClements, dated May 5, 2010

² Letter from Brett Hinton, Arizona E-rate Coordinator, Department of Education

³ Numerous pictures showing computer usage in the cited buildings

2. We submit a letter from the State of Arizona Department of Education which supports our position in this matter.
3. We submit a letter from our Superintendent where he certifies that the E-rate support received for the buildings in question went ONLY to facilities within those buildings where "activities...integral, immediate, and proximate to the education of students..." took place.

We respectfully request that the FCC consider this issue and approve the Funding Requests as submitted.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Huber", with a stylized, cursive script.

Paul Huber, Director of Operations
Shonto Preparatory School
Phone: 928.672.2652
Email: phuber@shontoprep.org

Cc: Brett Hinton, Arizona State E-rate Coordinator
Ray Mendiola, Principal Consultant, E-Rate Success Strategies
Chris Nofen, Premise One, Inc.

Robina Henry
Shonto Preparatory School
PO Box 7900
Shonto, AZ 86054

Billed Entity Number: 223981
Form 471 Application Number: 577360
Form 486 Application Number:

SEP - 7 2010

FCC Mail Room



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2007-2008

July 13, 2010

Robina Henry
Shonto Preparatory School
PO Box 7900
Shonto, AZ 86054

Re: Applicant Name: SHONTO PREPARATORY SCHOOL
Billed Entity Number: 223981
Form 471 Application Number: 577360
Funding Request Number(s): 1597188
Your Correspondence Dated: May 18, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2007 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1597188
Decision on Appeal: **Denied**
Explanation:

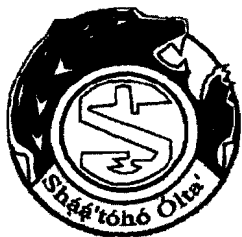
- USAC has determined that the entity (Shonto Preparatory School, specifically Shonto Student Residential Dormitories) does not meet the statutory definition of an elementary or a secondary school found in the No Child Left Behind Act of 2001 (20 U.S.C. Section 7801, 18 and 38). Whether an individual school, school district, or consortia of schools or school districts are eligible for discounts depends on whether the entity meets the statutory definitions as outlined below. The information provided indicates that Shonto Student Residential Dormitories is ineligible to receive products and/or services. Shonto Student Residential Dormitories does not satisfy the definition(s) explained below. During the course of a review it was determined that services were provided to, or installed at, Shonto Student Residential Dormitories. This resulted in a Commitment Adjustment Letter (CAL) being sent out to recover funds associated with the Dormitories. In your appeal, you did not prove that USAC's determination was incorrect. Consequently, your appeal is denied.

- FCC rules provide that [o]nly schools meeting the statutory definitions of elementary school, as defined in 20 U.S.C. 7801(18), or secondary school, as defined in 20 U.S.C. 7801(38) . . . shall be eligible for discounts. See 47 C.F.R. sec. 54.501(b)(1). The FCC has defined a school as including individual schools, school districts, and consortia of schools and/or school districts. See Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9002, FCC 97-157 para. 425, n.1087 (rel. May 8, 1997). 20 U.S.C. 7801(18) defines an elementary school as a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law. 20 U.S.C. 7801(38) defines a secondary school as a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12. See 47 C.F.R. sec. 54.500(c) and (k).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company



SHONTO PREPARATORY SCHOOL

OPERATION & TECHNOLOGY OFFICE
DIRECTOR: PAUL HUBER
INSTRUCTIONAL SPECIALIST: ROBINA HENRY

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Letter of Appeal

Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza
PO Box 685
Parsippany, NJ 07054-0685

VIA CERTIFIED MAIL

May 18, 2010

1. Contact Information:

- a. Applicant Name: Shonto Preparatory School (BEN 223981)
- b. Contact Person Name: Robina Henry
- c. PO Box 7900, Shonto, AZ 86054
- d. Contact Phone Number: 928.672.3534

2. USAC Action Being Appealed:

- a. Funding Commitment Adjustment Letter dated April 22, 2010
- b. Form 471 Number: 577360
- c. Funding Year: 2007
- d. FRN:1597188
- e. Billed Entity Number: 223981
- f. FCC Registration Number: 000000000
- g. In its Funding Commitment Adjustment Letter dated April 22, 2010, USAC stated:
 - i. “During the course of a review it was determined that services were provided to, or installed at, an ineligible entity. During the 2008 PIA Review of 471 #630913 it was discovered that there was an ineligible residential portion. Per documentation provided by the applicant, 2 Catalyst 3560 switches, 4 1000 Base-SXSFP’s, and installation and configuration in the amount of \$10,832.00 is attributed to the residential facility (dormitories).” *[We do not understand the reference to this FCC Form 471 or the Funding Year, as these are different from the information cited in the title of the COMAD Letter.]*

In response to your letter of April 22, 2010, wherein USAC declares as ineligible certain portions of our campus, we offer the following information.

As we have stated numerous times before, the buildings which are the subject of this recovery effort are NOT simply sleeping facilities. These buildings are located on our campus and are an integral part of our educational effort.

As you can see from the memorandum previously submitted to USAC by our Superintendent¹ (attached here), he certifies that "These residential facilities contain fully functioning computer labs that are used every day for the continuing instruction of our students." Please note that we further certify that ONLY the instructional areas within these buildings received E-rate support. No equipment was installed and no services are available in the rooms where students sleep.

We are also submitting a letter of support from the State of Arizona Department of Education² (attached). Mr. Brett Hinton, Arizona State E-rate Coordinator, researched this issue and concluded that there are no restrictions imposed by the State of Arizona that would preclude the funding of the buildings in question.

Further, in his letter of August 3, 2009, Mr. Hinton goes on to support Shonto's position that the E-rate requests received or pending in this matter, are valid and eligible.

Finally, we have included numerous pictures taken this week which shows the Computer Labs in these building, and pictures showing that no ineligible services are to be found in the sleeping rooms.³

Therefore, we have chosen to exercise our option to Appeal this action.

1. We do not agree with your eligibility assessment of our entities.
2. We submit a letter from the State of Arizona Department of Education which supports our position in this matter.
3. We submit a letter from our Superintendent where he certifies that the E-rate support received for the buildings in question went ONLY to facilities within those buildings where "activities...integral, immediate, and proximate to the education of students..." took place.

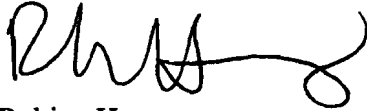
¹ Revised Memorandum from Superintendent McClements, dated May 5, 2010

² Letter from Brett Hinton, Arizona E-rate Coordinator, Department of Education

³ Numerous pictures showing computer usage in the cited buildings

We respectfully request that USAC reconsider this issue and approve the Funding Requests as submitted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robina Henry', with a stylized, flowing script.

Robina Henry
Instructional Specialist/Coordinator
Technology Department
Phone: 928-672-3534
rhenry@shontoprep.org

Cc: Brett Hinton, Arizona State E-rate Coordinator
Ray Mendiola, Principal Consultant, E-Rate Success Strategies
Chris Nofen, Premise One, Inc.



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

August 3rd, 2009

To USAC Reviewer:

According to the Arizona Department of Education (ADE), the following school qualifies as a secondary school in Arizona:

- Shonto Preparatory School

These schools are listed as elementary or secondary schools in all of ADE's programs and reports. While students do reside on the campus in certain buildings, there are rooms within those buildings that serve to deliver instruction to students. As indicated by Shonto Preparatory School, all E-Rate requests are for services to those instructional areas and are NOT for any of the rooms where students sleep, otherwise referred to as dormitories by USAC.

Whereas all E-Rate requests are for rooms in which valid instructional services are delivered to eligible students, we would request that USAC also consider the E-Rate requests fundable without cost-allocating out these facilities.

If you need additional information or verification, please contact me at 602-542-5233 or at brett.hinton@azed.gov.

Thanks,

A handwritten signature in black ink, appearing to read "Brett M. Hinton".

Brett Hinton
Arizona Education E-Rate Coordinator



Shonto Preparatory School

OFFICE OF THE SUPERINTENDENT

P.O. Box 7900, East Hwy 160, Rt. 98
Shonto, Arizona 86044-7900
(928) 572-2652 Ext. 525 Fax (928) 572-3507



Richard McClements, Ed.D. - Superintendent



richard.mcclements@mail.shonto.bia.edu

To: USAC, School and Libraries Division - Correspondence Unit
From: Richard McClements, Superintendent *RM*
Re: Appeal to Have School Dormitories Funded for the E-Rate Application
Date: May 5, 2010

The purpose of this correspondence is to petition your approval of the Shonto Preparatory School E-rate application as it pertains to the Shonto Student Residential Dormitories. This memo is meant to provide you with additional information upon which you can then make your final determination.

The residential facilities that we have at Shonto Preparatory School do not simply provide living quarters for our students. These residential facilities contain fully functioning computer labs that are meant to be an extension of the school classrooms. They are used daily for continuing instruction of our students. Faculty members go to the dormitories and conduct daily, ongoing, and planned tutoring for all students that are deemed to require this assistance. These computer labs are loaded with critical educational software that directly correlate with the AZ Academic Standards, such as "Study Island." Other essential classroom software support include "Accelerated Readers" and "Accelerated Math."

Therefore, with all due respect, we do not agree that our requests for funding of these facilities is ineligible, and I urge USAC to approve funding for this needed and most appropriate service to children.

Thank you for your consideration.

Copy: Paul Huber, Director of Operations

Footnote #1



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

August 3rd, 2009

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Thanks,

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Brett Hinton
Arizona Education E-Rate Coordinator



Shonto Preparatory School

OFFICE OF THE SUPERINTENDENT

P.O. Box 7900, East Hwy 160 & Rt. 98
Shonto, Arizona 86054-7900
(928) 672-2652 Ext. 525 Fax (928) 672-3507



Richard McClements, Ed.D. - Superintendent



email: rmclements@mail.shonto.bia.edu

To: USAC, School and Libraries Division - Correspondence Unit
From: Richard McClements, Superintendent *RM*
Re: Appeal to Have School Dormitories Funded for the E-Rate Application
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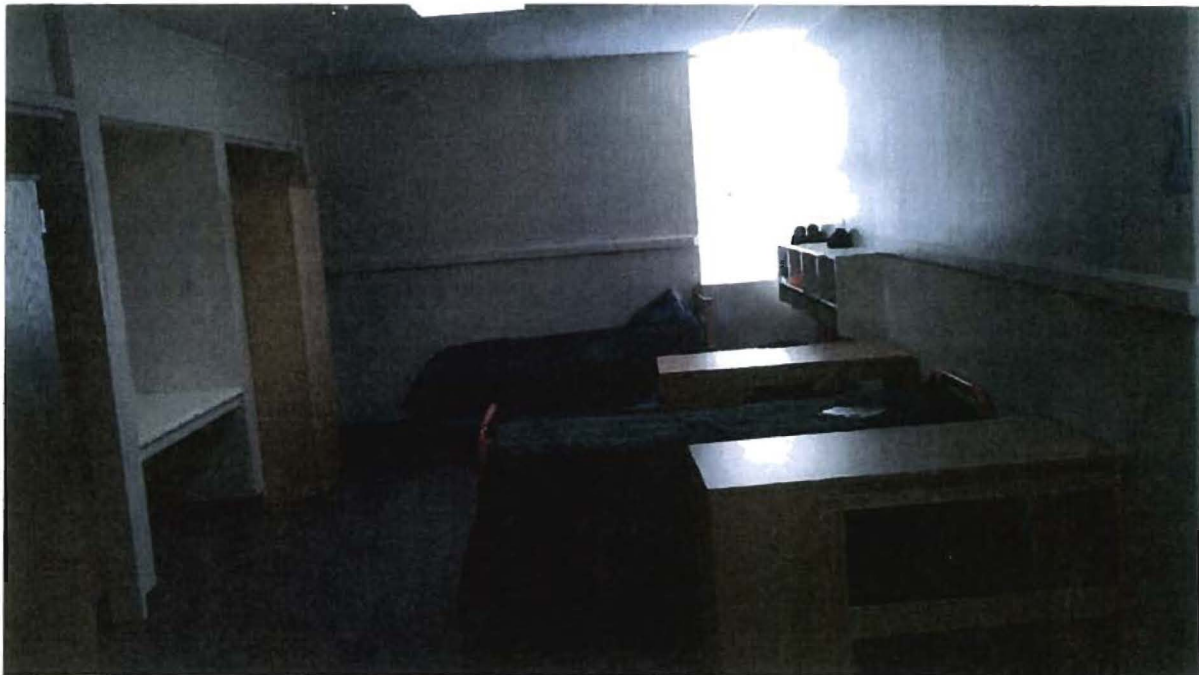
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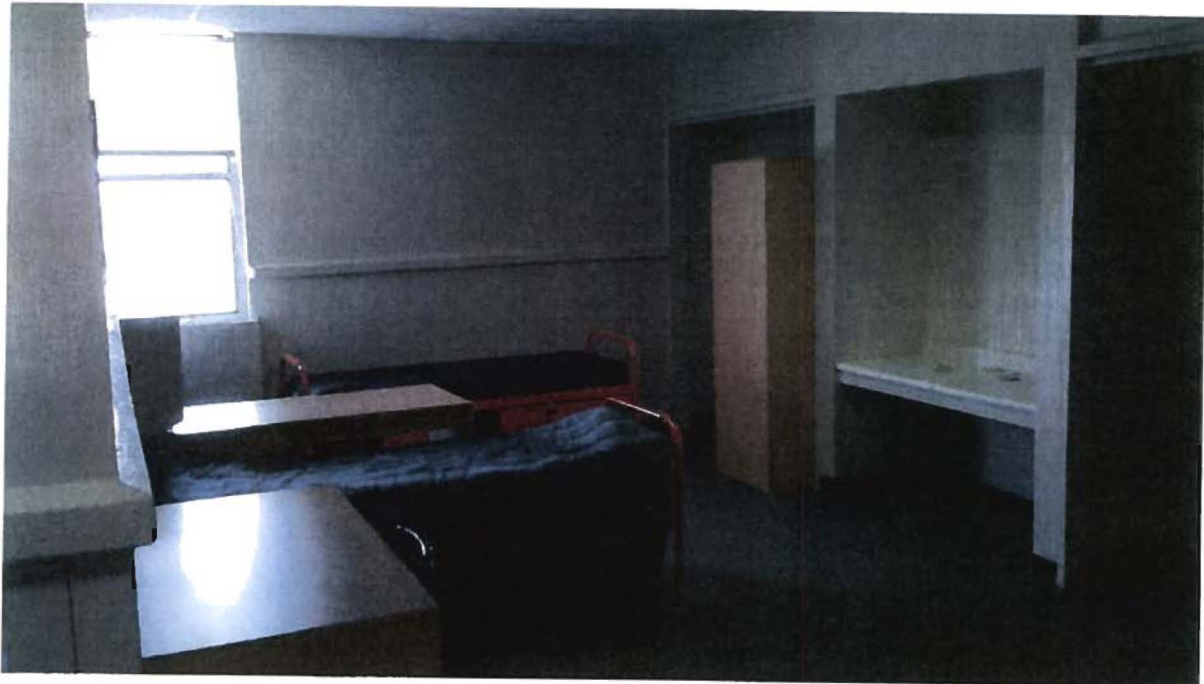
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Copy: Paul Huber, Director of Operations

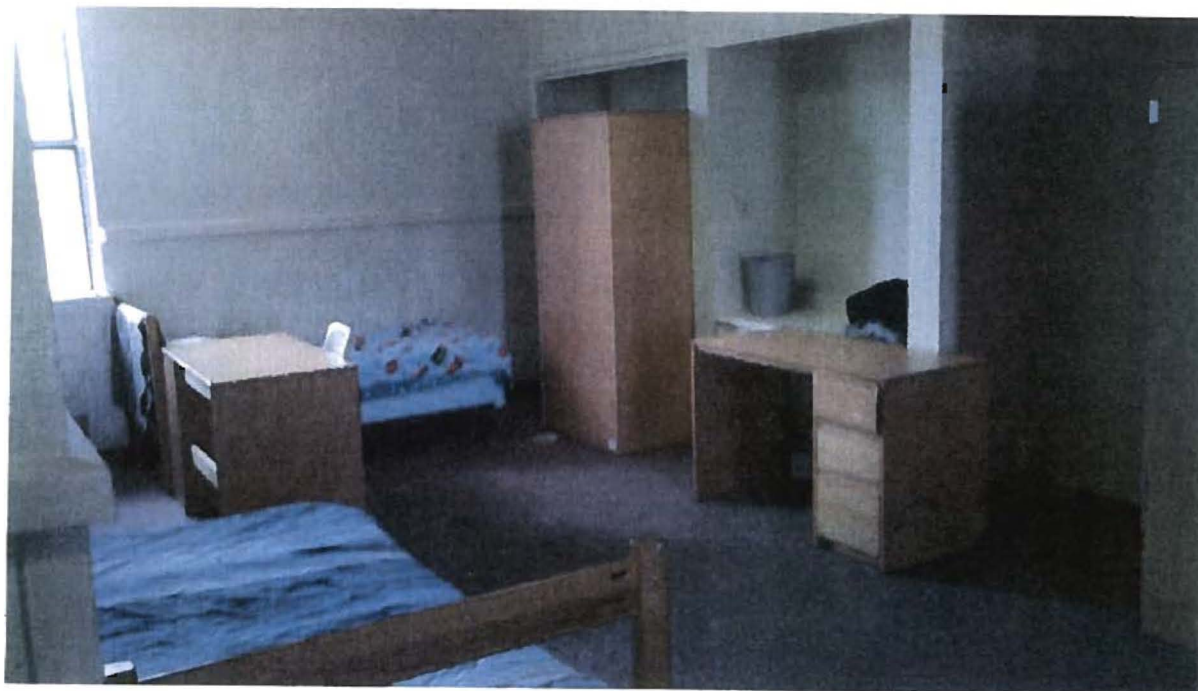
Residential Building 671 – Sleeping Quarters³



Footnote #3

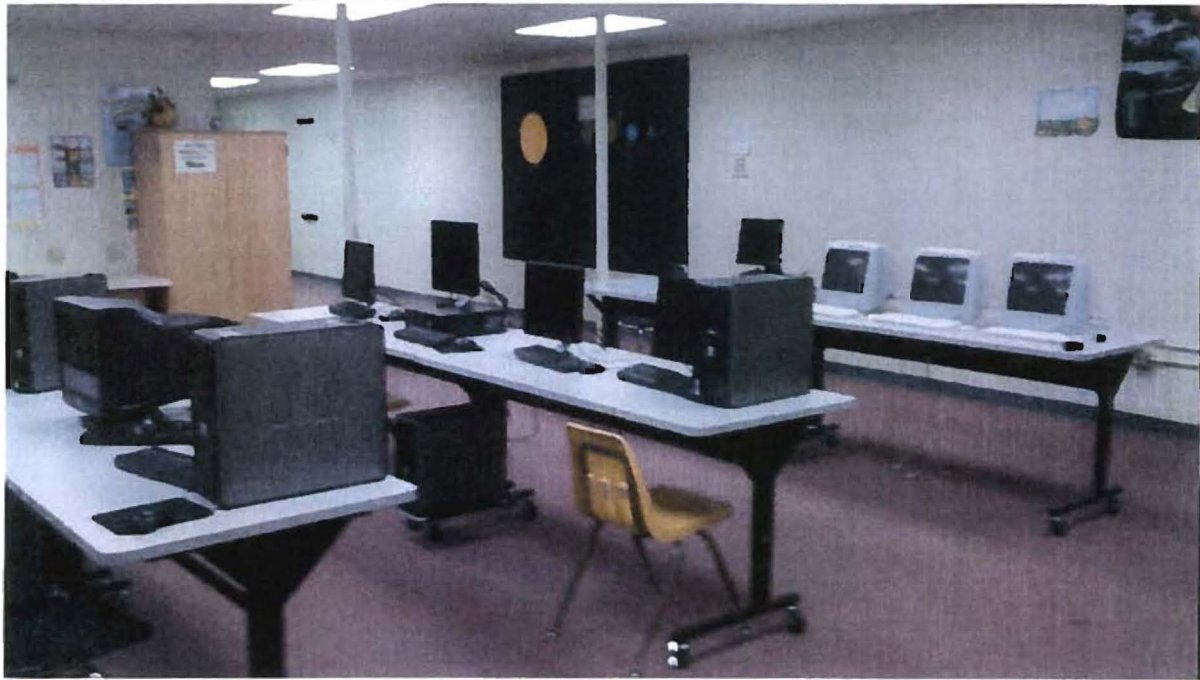


Footnote #3



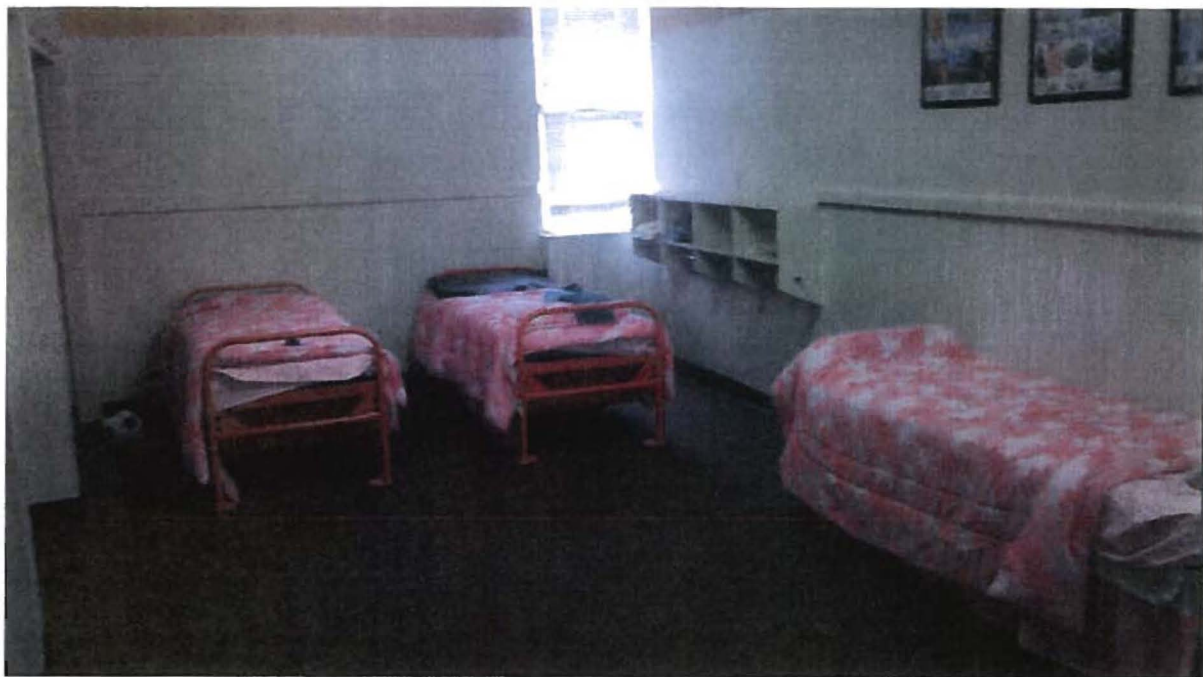
Footnote #3

Residential Building 671 – Instructional Rooms³



Footnote #3

Residential Building 674 – Sleeping Quarters³



Footnote #3



Footnote #3

Residential Building 674 – Instructional Rooms⁶⁰



Footnote #3